

NOTICE PUBLICATION/REGULATION SUBMISSION

STD 400 (REV. 3-92)

(See instructions on reverse)

For use by Secretary of State only

OAL FILE NUMBERS	NOTICE FILE NUMBER	REGULATORY ACTION NUMBER	EMERGENCY NUMBER	PREVIOUS REGULATORY ACTION NUMBER
	297-0506-05	11-1724-01		

For use by Office of Administrative Law (OAL) only

RECEIVED FOR FILING PUBLICATION DATE

MAY 06 '97

MAY 16 '97

Office of Administrative Law

97 AUG 20 PM 2:49

7/23/97
SECRETARY OF STATE

MAY 20 1997

AGENCY	REGULATIONS	AGENCY FILE NUMBER (if any)
California Highway Patrol		97-01

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE	HRCQ RADIOACTIVE MATERIALS	TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
SHIPMENTS AND GENERAL HAZARDOUS MATERIALS REGULATIONS		13 CCR	1158	May 16, 1997
3. NOTICE TYPE	4. AGENCY CONTACT PERSON		TELEPHONE NUMBER	
<input checked="" type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other	Steve Brown or Paul Horgan		916-327-3310	
OAL USE ONLY	ACTION ON PROPOSED NOTICE	NOTICE REGISTER NUMBER	PUBLICATION DATE	
	<input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn	97-020-2	516-99	

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics-related)

SECTIONS AFFECTED	ADOPT
	AMEND
	1158, 1158.3, 1160.2, 1161.2, 1163, 1165, 1165.1, 1167
TITLE(S)	REPEAL
13 & 26	1168

2. TYPE OF FILING

<input checked="" type="checkbox"/> Regular Rulemaking (Gov. Code, § 11346)	<input type="checkbox"/> Resubmittal	<input type="checkbox"/> Emergency (Gov. Code, § 11346.1(b))	<input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing
<input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Government Code §§ 11346.4 - 11346.8 prior to, or within 120 days of, the effective date of the regulations listed above.			
<input type="checkbox"/> Print Only	<input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, § 100)	<input type="checkbox"/> Other (specify)	

3. DATE(S) OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §§ 44 and 45)

n/a (no modifications)

4. EFFECTIVE DATE OF REGULATORY CHANGES (Gov. Code § 11346.2)

<input checked="" type="checkbox"/> Effective 30th day after filing with Secretary of State	<input type="checkbox"/> Effective on filing with Secretary of State	<input type="checkbox"/> Effective other (Specify)
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5. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

<input checked="" type="checkbox"/> Department of Finance (Form STD. 399)	<input type="checkbox"/> Fair Political Practices Commission	<input type="checkbox"/> State Fire Marshal
<input type="checkbox"/> Other (Specify)		

CONTACT PERSON	TELEPHONE NUMBER
Paul Horgan or Steve Brown	(916) 327-3310

I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE	DATE
Assistant Chief Mike Senna, Enforcement Services Division	7/23/97

DEPARTMENT OF CALIFORNIA HIGHWAY PATROL

ADOPTED TEXT

JULY 1997

Existing text: Times New Roman 12 point font.

Additions: Times New Roman 12 point font with single underline.

Deletions: ~~Times New Roman 12 point font with strikethrough.~~

Title 13, California Code of Regulations (13 CCR), Division 2, Chapter 6

Article 2.7

Route Requirements For Through Transportation Of Highway Route Controlled Quantity Shipments Of Radioactive Materials

(1) Section 1158 is amended to read:

§ 1158. Applicability.

(a) This article designates the through routes to be used for the transportation of highway route controlled quantity shipments of radioactive materials subject to Section 33000 of the Vehicle Code.

(b) This article shall apply to the transportation of *highway route controlled quantity shipments* of radioactive materials as defined in Title 49, Code of Federal Regulations, Section 173.403(1).

Note: Authority cited: Section 33000, Vehicle Code. Reference: Section 33000, Vehicle Code

(2) Section 1158.3 is amended to read:

§ 1158.3 ~~Time of Day and Day of Week Considerations.~~ Carrier, Driver, Training and Reporting Requirements.

~~Time of day and day of week considerations are deferred to federal regulation currently found in Title 49 Code of Federal Regulations, Section 177.825. Carriers and drivers shall comply with the requirements of Title 49 Code of Federal Regulations, Section 397.101.~~

Note: Authority cited: Section 33000, Vehicle Code. Reference: Section 33000, Vehicle Code; and Title 49 Code of Federal Regulations Section ~~177.825~~ 397.101

Article 3
General Hazardous Materials Regulations

(3) Section 1160.2(a) is amended to read as follows, Subsections (b), (c), (d) and (e) remain unchanged:

§ 1160.2. U.S. Department of Transportation Regulations.

(a) This article incorporates by reference portions of 49 CFR, Part 107, Parts 171 through 180, and Part 393 to the extent specified in this article. Unless otherwise specified, all references to 49 CFR in this article are those regulations published on October 1, 19956.

Note: Authority cited: Sections 2402.7 and 34501, Vehicle Code. Reference: Sections 2402.7 and 34501, Vehicle Code.

(4) Section 1161.2 is amended to read:

§1161.2. Hazard Labels.

(a) Shippers and carriers shall comply with the labeling requirements contained in 49 CFR, Part 172, Subpart E (commencing with Section 172.400).

(b) As specified in 49 CFR 172.401(b), no labels shall be used when they may be confused by reason of shape, size, or color with the hazard labels prescribed by this section unless authorized by 49 CFR 172.401(c).

(c) As specified in 49 CFR 172.401(a), hazard labels prescribed by this section shall not be affixed to packagings which do not contain hazardous materials or when the label does not represent the hazard of the hazardous material in the package, unless authorized by 49 CFR 172.401(c).

(d) All labels and decals on packages shall be replaced before they become illegible. ~~Carriers shall maintain a supply of labels appropriate to the hazardous materials being transported and replace lost or destroyed labels in conformance with 49 CFR 177.815.~~

~~(e) Carriers shall label astray shipments in conformance with 49 CFR 177.811~~

Note: Authority cited: Section 34501, Vehicle Code. Reference: Section 34501, Vehicle Code.

(5) Section 1163 is amended to read:

§ 1163. Shipment Preparation.

Shipment preparation of hazardous materials shall be governed by the following:

(a) Shipments shall be prepared for transportation and transported in accordance with provisions of 49 CFR Part 173.

(b) Only packagings authorized for shipment of specific commodities by 49 CFR Parts 172 and 173, shall be used, except when otherwise authorized by Sections 1160.1, 1160.4(c) or (d), or 1163(c) or (f) of this article.

(c) Cargo tanks that were authorized by Title 19, California Code of Regulations (19 CCR), Section 1609.1 on April 1, 1984, which were manufactured and placed into service prior to April 1, 1984, may continue to be used by intrastate carriers, who are not directly subject to federal jurisdiction, to transport flammable liquids under the conditions listed below. The provisions of this subsection shall terminate on October 1, 1996, or on the date RSPA no longer authorizes the use of non DOT specification cargo tanks for the transportation of flammable liquids as prescribed in the final rule on RSPA Docket HM-200 (Hazardous Materials in Intrastate Commerce), whichever date is later.

(1) The flammable liquid has no secondary hazard(s) for which transportation in a MC-306 cargo tank is not authorized.

(2) The cargo tanks are maintained, retested, inspected and marked in accordance with 49 CFR 173.24(b), (e), (f), (g) and (h); 173.24b(a)(1) and (2), (c) and (d)(1); ~~177.814; and 177.824,~~ and 49 CFR Part 180 applicable to a MC-306 DOT specification cargo tank.

(d) Package closures shall be adequate to prevent leakage of contents, and leaking packages shall not be transported.

(e) Except as provided in subsections (c) and (f), the maintenance, retesting, inspection and qualification of packages shall be in accordance with 49 CFR Part 173, Subpart B and 49 CFR 177.814, 177.824 and 49 CFR Part 180. Copies of certificates, reports, and records of retesting shall be subject to inspection by any authorized employee of the department.

(f) Truck-mounted cargo tanks manufactured before 1970, or manufactured before 1972 and having a capacity of 7,571 liters (2,000 gallons) or less, may be continued in service by private carriers to transport anhydrous ammonia between a filling point and a ranch, or between two locations on one ranch, or between ranches, and need not meet specifications in 49 CFR Part 178, provided:

(1) The tank meets design, construction, repair and operational requirements for anhydrous ammonia transportation tanks in the Unfired Vessels Safety Orders, Chapter 4, Title 8, California Code of Regulations; and

(2) The tank is operated by a carrier not subject to federal jurisdiction.

Note: Authority cited: Sections 34019 and 34501, Vehicle Code. Reference: Sections 34019 and 34501, Vehicle Code.

(6) Section 1165 is amended to read:

§ 1165. ~~Inhalation Hazard Transport Vehicle Emergency Equipment~~ [Reserved].

Note: Authority cited: Section 32102, Vehicle Code. Reference: Section 32102, Vehicle Code.

(7) Section 1165.1 is amended to read:

§ 1165.1 ~~Explosives Transportation License~~ [Reserved].

Note. Authority cited: Section 34501, Vehicle Code. Reference: Section 34501, Vehicle Code.

(8) Section 1167 is amended to read:

§ 1167. ~~Delivery of Shipments; Action in Event of Accidents.~~

The delivery of hazardous materials shipments and required driver action in the event of accidents shall be governed by provisions of 49 CFR, Part 177, Subpart D (commencing with Section 177.8534). Notwithstanding the provisions of Section 1163(d), a leaking packaging which develops or is discovered subsequent to the commencement of transportation may be transported in accordance with 49 CFR, Part 177, Subpart D.

Note: Authority cited: Section 34501, Vehicle Code. Reference: Section 34501, Vehicle Code.

(9) Section 1168 is repealed:

§ 1168. ~~Special Instructions Flammable Cryogenic Liquids~~ [Reserved].

~~Flammable cryogenic liquids shall be transported in accordance with 49 CFR 177.818.~~

Note: Authority cited: Section 34501, Vehicle Code. Reference: Section 34501, Vehicle Code.